REMARKS

Applicant thanks the Examiner for the thorough consideration given the present Application. Claims 1-4, 7-9, and 12-25 are pending in this application. Claims 1, 12, 18 and 25 are the independent claims. Claims 3 and 18 have been amended to correct typographical errors while claims 1 and 18 have been further amended to reflect the discussion of the interview held April 22, 2008, that is noted below. Claim 1 was also amended to provide a consistent recital and proper antecedent basis for the previously recited "imaging device communication means." Claim 21 has been amended to be consistent with the amendment to claim 18. New claims 22 and 24 are added directed to the use of a shielded camera case as discussed at page 16, lines 6-11, for example, and new claim 23 is directed to inclusion of an informing unit with the terminal device as disclosed at page 14, lines 15-20, for example. In addition, new independent claim 25 is added to add the term "substantially" to independent claim 12 so that claim 25 corresponds to amended claim 12 of the Second Preliminary Amendment of June 18, 2008, that was not entered as discussed below. Accordingly, no new matter has been introduced.

IDS filed June 19, 2007

On June 19, 2007, an Information Disclosure Statement (IDS) was filed that cited two U.S. Patent Application Publications and three Japanese documents on a substitute Form 1449/PTO. Copies of the three Japanese documents were included with English Language Abstracts and it was noted that two of the three Japanese documents corresponded to the two cited U.S. Patent Application Publications. Applicant requests a copy of this substitute Form 1449/PTO that has been signed and initialed in accordance with the rules to indicate consideration of these references.

Second Preliminary Amendment of June 18, 2008.

On August 11, 2008, Examiner Peterson confirmed that the Second Preliminary Amendment that was filed on June 18, 2008, had been received by the United States Patent and Trademark Office (USPTO) during a telephone conversation with Applicant's representative.

However, Examiner Peterson indicated that as this Second Preliminary Amendment (that was filed on June 18, 2008) was not responsive to the rejections of claims 1-4, 7-9, and 12-21 (as presented by the Preliminary Amendment filed March 24, 2008) that were included in the outstanding Action mailed June 12, 2008, the Second Preliminary Amendment could not be entered and that a response to this Action mailed June 12, 2008, that properly treated the rejections therein, would have to be filed by September 12, 2008, to avoid the cost of an extension of time. Accordingly, the present amendment represents the amendments to claims 1 and 18 of the June 18, 2008, Second Preliminary Amendment and includes new independent claim 25 that corresponds to amended independent claim 12 that was also included in that un-entered amendment. In addition, the contents of the remarks portion of this un-entered June 18, 2008, Second Preliminary Amendment are repeated as follows:

> Claims 1-4, 7-9, and 12-21 are pending in this application. No new matter has been added.
>
> Applicants wish to thank examiners Peterson and Henn for the courtesy of granting a personal interview in this application on April 22, 2008, to discuss the preliminary amendment filed March 24, 2008, with applicant's representative.
>
> During the interview, applicant's representative explained the deficiencies of the principal reference to Moores, Jr. et al. with particular regard to the embodiment of Figure 7. One problem that came to light during the course of the discussion was that the examiners were of the view that even an omni-directional imaging communication device would communicate data "within an imaging angle of view of the imaging means," even if it would also communicate data substantially outside of the imaging angle of view as well.
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> Applicant's representative went on to discuss the distinctions between the Moores, Jr. reference and the operation of the present application, and as a result of these discussions, the examiners agreed that the claim would be allowable if amended to reflect the scope originally intended in terms of reciting that the imaging communication device and the imaging means are arranged "so that the data communication range of the imaging device is substantially within an imaging angle of view of the imaging means." Accordingly, independent claims 1 and 12 are now amended to reflect this agreed upon subject matter that clearly patentably distinguishes over Moores, Jr.

In addition to the discussion as to overcoming the Moores, Jr. reference, the examiners noted a concern that the Kaku reference, a U.S. Publication 2002/0049728 A1, teaches some of the concepts of the present application.

In response to this concern, it is noted that both the present invention and Kaku have a common aim in terms of obtaining a photograph of a subject who has a natural facial expression at a so-called theme park, or the like. There is also the common intent to obtain the photograph of the subject without trying to force the desired natural facial expression. However, the present invention and Kaku are different from each other with respect to the following points.

One of the objects of the present invention is to make it possible to immediately check an image after it is photographed. Therefore, in the present invention, a display is provided as part of the terminal device. Note the independent claim 1 recital of "the one or more terminal devices including a display capable of displaying images" and that independent claim 12 requires that the terminal device "also includes a display to display the images obtained by the one or more cameras." Similarly, independent claim 18 recites that the terminal device used has, among other features, a "display." There is no teaching or suggestion of such a terminal display in Kaku.

Thus, even though the present invention and Kaku both seek to obtain photographs in a theme park or the like, it is only the present invention (note again the quotes from independent claims 1, 12, and 18) that has the display for showing the image of the subject photographed immediately after the photograph is made by displaying the image at the terminal device. Again, no such display is taught or suggested by Kaku that could provide this immediate display of the subject.

Since the present invention aims to show the image immediately after photography, the terminal device recited in each of independent claims 1, 12, and 18 includes the display as noted above. In addition, independent claim 18 includes a feature that an image of a user, who is a subject, is displayed on the display unit of the terminal device. Once again, it is noted that Kaku fails to teach or suggest any of these claimed features.

Furthermore, it is noted that Kaku describes the following imaging timings:

1. Predetermined interval (Paragraph 0129);
2. Predetermined imaging timing (Paragraph 0132);
3. Predetermined distance (Paragraph 0133);
4. Specific positional relationship (Paragraph 0136); and

5. "When a subject has arrived at a predetermined position" (Paragraph 0179).

In contrast, the imaging timing recited in claims 1 is "when the terminal device carried by the subject and the imaging device communication means become able to communicate with each other." Similarly, claim 12 recites "wherein the terminal device includes an integral terminal communicator to communicate a unique identification code to the controller when the terminal device is within the operative range of one or more cameras." To the extent that Kaku describes the "predetermined imaging timing" in (2) above, it still fails to teach or suggest the claimed timing, e.g., "when communication between the communication means of the terminal and the imaging wireless communication means becomes possible",

Further, Figure 24 of Kaku illustrates the relationship between the data communication area of the wireless communication means for imaging and the angle of view of the imaging means. However, Kaku fails to teach or suggest the feature of the present invention that "the imaging communication device and the imaging means are arranged so that the data communication range of the imaging communication device is substantially within an imaging angle of *view* of the imaging means" of claim 1 or the similar requirement of claim 12..

Further, Kaku fails to teach or suggest the invention claimed in claim 3, in which an image obtained by imaging is transmitted to the terminal device. Further, Kaku fails to teach or suggest the invention claimed in claim 7, in which photography is prohibited after a predetermined number of images have been photographed continuously. Further, Kaku fails to teach or suggest the invention claimed in claim 8, in which imaging is prohibited for a predetermined time after photography.

Outstanding rejection of claims 1-3, 7-9 and 19 under 35 U.S.C. § 103(a)

Claims 1-3, 7-9, and 19 stand rejected under 35 USC § 103(a), as being unpatentable over U.S. Patent Application Publication No. 2004/0201738 to Moores, Jr. et al. (hereinafter "Moores") in view of newly cited U.S. Patent No. 6, 490,409 to Walker (hereinafter "Walker"). Applicant respectfully traverses this rejection.

Moores teaches that each individual 13 carries a radio frequency identification (RFID) tag 20 that includes an identifier code to uniquely identify the individual 13. The RFID tag 20 is read by the RFID reader 23 when the individual 13 is close to the RFID reader 23 that is positioned somewhere near to an image capture device 15. This reading of RFID tag 20 can

directly trigger the image capture device 15 to capture an image or enable it to capture an image by being "AND'd" with a subsequent switch operation to trigger the image capture device 15. See paragraphs [0020] and [0024] of Moores, for example. In Moores, the image data obtained by the image capture device 15, is stored in a database 26 from which it can be accessed. See, Moores, paragraphs [0021] and [0022], for example.

While Moores suggests the use of a portable digital assistance (PDA) 123 that connects to the Internet in FIG. 1, this PDA 123 is only taught (by paragraphs [0022] and [0040]) to be an alternative facility to the Kiosk 125 or home computer 121 for obtaining access to previously taken images in the database 26. Thus, to whatever extent that paragraph [0047] of Moores suggests the use of the PDA to view captured images, it is to obtain access to captured pictures from the database 26. This is not a reasonable teaching or suggestion of any communication between the PDA and the image capture device 15.

In this last regard, paragraph [0047] only indicates that device 15 will capture the images which are then stored prior to being made available for viewing, with storage being "accomplished as discussed in connection with FUIGS. 4-6." It appears that the outstanding Action makes an improper assumption as to there being a teaching of a communication between the device 15 and the PDA that is not set forth here or elsewhere in Moores. It is well established that the PTO must produce actual evidence to support an obviousness rejection without resorting to speculation or unfounded assumptions. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967).

In addition to paragraph [0047] of Moores not teaching that the image capture device 15 performs the claim 1 required wireless data communication with the PDA, paragraphs [0023], [0024], and [0034] of Moores (that are relied upon at page 3, lines 12-14, of the outstanding Action) also do not reasonably suggest that the image capture device 15 performs the claimed wireless data communication with either PDA 123 or the RFID tag 20 via wireless LAN 34 or otherwise. In this regard, paragraph [0023] simply discusses how the RFID tags 20 are read by RFID scanner 23 in a particular gondola car environment. Paragraph [0024] simply discusses the alternatives of the tag detection by 23 directly triggering the image capture device 15 or that the tag detection by 23 is "AND'd" with switch activation to trigger device 15. While paragraph

[0034] discusses the FIG. 4 showing of the scanner 23 being connected to the device 15 by wireless linkage including wireless LAN 34, there is no teaching here that device 15 performs the claimed wireless data communication with either PDA 123 or the RFID tag 20 via wireless LAN 34. Instead, paragraphs [0036] and [0037] teach that the wireless LAN 34 is simply a part of the wireless link between RFID scanner 23 and the device 15 that enables 15 to be "initiated remotely over the wireless link." This teaching of remote activation of device 15 is not a teaching that device 15 communicates back to the RFID tag 20. Moreover, as RFID tag 20 simply supplies an ID that permits device 15 to be activated, there would be no reason to have device 15 of Moores perform wireless data communication with the RFID tag 20 that cannot receive and process such a communication. As was further noted above, to the extent that PDA 123 is taught to be used at all, it is taught in paragraphs [0022] and [0040] to be used as one of three alternatives to access captured images stored in database 26, not to have any communication with device 15.

To the extent that the PTO continues to assert that Moores actually teaches that something in image capturing device 15 is to act as the claim 1 required "imaging communication means included with each associated imaging means for providing wireless data communication with the subject carried terminal devices," the case law requires that the PTO to specifically point to where in Moores these teachings were found. *See In re Rijckaert*, 9 F.3d 1531, 1533, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

Turning to Walker, it is noted that this reference at best teaches that after capturing an image and storing it, separate environ segment images are added therewith as part of an overall program. See lines 1-5 of the Walker abstract. These separate environ segment images being added to previously captured images are taught by col. 7, lines 44-46 of Walker to be created by an operator who "selects viewpoints for cameras at each attraction as indicated at block 244, and positions the camera to select a detection zone at 246." The reference character 246 thus represents a step of the flowchart of FIG. 6, not any detection zone that has anything to do with a data communication direction of any communication means. Instead of suggesting that these "detection zones" have anything to do with data communications, Walker discloses that these "detection zones correspond to the fields of view for each of the personal video segments or

images" as noted at col. 7, lines 46-48. Missing from Walker is any hint of the claim 1 subject matter requiring that "the imaging communication means and the associated imaging means are arranged so that a data communication direction of the imaging communication means and an imaging direction of the imaging means are substantially identical," much less the further requirement that "the imaging communication means and the associated imaging means are arranged so that the data communication range of the imaging communication means is substantially within an imaging angle of view of the associated imaging means."

Thus, it is clear from a full reading of Walker that the disclosed "detection zones" each simply corresponds to a camera field of view for capturing a subsequent environ segment image that corresponds to the field of view of the camera that captured the personal video segments or images for each attraction. Col. 7, lines 49-52, of Walker is also noted.

Accordingly, even if the artisan were to attempt to adapt the environ segment teachings of Walker to modify the system of Moores for some reason not adequately explained in the outstanding Action, there would still be no valid *prima facie* case of obviousness as to the subject matter recited by claim 1 that is also incorporated into dependent claims 2, 3, 7-9, and 19. Consequently, the withdrawal of the rejection of claims 1-3, 7-9, and 19 under 35 USC § 103(a), as being unpatentable over Moores in view of Walker is respectfully requested.

Rejection of claims 12-18, 20, and 21 under 35 U.S.C. § 103(a)

Claims 12-18, 20, and 21 stand rejected under 35 USC § 103(a) as being unpatentable over Moores in view of Walker in further view of U.S. Patent Publication No. 2002/0126013 to Bridgelall (hereinafter "Bridgelall"). Applicant respectfully traverses this rejection.

As discussed during the above-noted interview held on April 22, 2008, there is nothing taught or suggested by Moores as to limiting the area for the detection of the terminal device by the imaging device or camera to be within the imaging area of the imaging device or camera.

Claim 12 has been reconsidered as to the existing recitation therein that already recites the very similar requirement that "said controller drives one or more of said cameras **only** when said terminal device is within the field of view of one or more of said cameras" (emphasis added). As Moores does not teach a controller that "drives one or more of said cameras **only**

when said terminal device is within the field of view of one or more of said cameras, and nothing in Walker or Bridgelall corrects this deficiency of Moores, the withdrawal of this rejection of independent claim 12 and claims 13-17, and 20 that depend from claim 12 under 35 USC § 103(a) as being unpatentable over Moores in view of Walker in further view of Bridgelall.

Amended independent claim 18 now recites "detecting the terminal device coming within a communication area of the imaging communication device included with each imaging device, the communication area being limited to substantially correspond to an imaging area of the imaging device in which an image can be successfully captured." It is again respectfully submitted that not only is this subject matter not taught by Moores or Walker, it is also not taught by Bridgelall. Accordingly, as none of the references applied teach or suggest this requirement of independent claim 18, the withdrawal of the rejection of independent claim 18 and claim 21 that depends from claim 12 as being unpatentable over Moores in view of Walker in further view of Bridgelall is also respectfully requested.

Rejection of claim 4 under 35 U.S.C. § 103(a)

Claim 4 stands rejected under 35 USC § 103(a) as being unpatentable over Moores in view of Walker in further view of U.S. Patent Publication No. 2004/0148404 to Muroya (hereinafter "Muroya"). Applicant respectfully traverses this rejection.

Muroya is cited as to the subject matter added by claim 4 and does not cure the deficiency noted above as to the reliance on Moores in view of Walker. Accordingly, claim 4 patentably defines over the applied references for at least the same reason that parent independent claim 1 does and withdrawal of this improper rejection of claim 4 under 35 U.S.C. §103(a) as being allegedly unpatentable over Moores in view of Walker in further view of Muroya is respectfully requested.

New Claims 22-25

New claims 22-24 depend from respective ones of independent claims 1, 12 and 18 and accordingly, patentably define over the applied references for at least the reasons noted above as to these independent patent claims. In addition, new claim 25 includes all the subject matter of

independent claim 12 and changes the requirement therein that "said controller drives one or more of said cameras only when said terminal device is within the field of view of one or more of said cameras" to read as it was presented in amended claim 12 of the non-entered amendment of June 18, 2008 (as "said controller drives one or more of said cameras **substantially** only when said terminal device is within the field of view of one or more of said cameras").

CONCLUSION

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Reg. No. 40,440 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: September 12, 2008

Respectfully submitted,

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